

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

A.R.M., a minor, by her legal guardian,
Duane A. Morlock,

Civil No. 12-322 (DWF/SER)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Michael J. Astrue, Commissioner
of Social Security,

Defendant.

This matter is before the Court upon Defendant Commissioner of Social Security Michael J. Astrue's objections (Doc. No. 30) to Magistrate Judge Steven E. Rau's January 10, 2013 Report and Recommendation insofar as it recommends that:

(1) Plaintiff A.R.M.'s Motion for Summary Judgment be granted as to remand; (2) Plaintiff A.R.M.'s Motion for Summary Judgment be denied to the extent Plaintiff seeks reversal and outright award of benefits; (3) Defendant Commissioner's Motion for Summary Judgment be denied; and (4) the case be remanded to the Commissioner for further proceedings consistent with the Report & Recommendation pursuant to 42 U.S.C. § 405(g). Plaintiff filed a response to Defendant's objections on February 4, 2013. (Doc. No. 31.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and

precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections.

Defendant objects to the Report and Recommendation and respectfully disagrees with the Magistrate Judge's findings, arguing that Defendant's finding of non-disability was supported by the record and requests that the ALJ's decision be affirmed. In particular, Defendant argues that (1) substantial evidence supports the ALJ's light RFC finding; (2) substantial evidence supports the ALJ's analysis of A.R.M.'s organic mental disorder; and (3) A.R.M.'s condition did not meet or equal the requirements of the "Mental Retardation" listing. Having carefully reviewed the record, the Court concludes that Defendant's objections offer no basis for departure from the Report and Recommendation and that Magistrate Judge Rau correctly determined that the matter should be remanded for further action.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Defendant Commissioner of Social Security Michael J. Astrue's objections (Doc. No. [30]) to Magistrate Judge Steven E. Rau's January 10, 2013 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Steven E. Rau's January 10, 2013 Report and Recommendation (Doc. No. [24]) is **ADOPTED**.

3. Plaintiff A.R.M.'s Motion for Summary Judgment (Doc. No. [9]) is **GRANTED as to remand.**

4. Plaintiff A.R.M.'s Motion for Summary Judgment (Doc. No. [9]) is **DENIED to the extent Plaintiff seeks reversal and outright award of benefits.**

5. Defendant Commissioner's Motion for Summary Judgment (Doc. No. [19]) is **DENIED.**

6. The matter is **REMANDED** to the Commissioner for further proceedings pursuant to 42 U.S.C. § 405(g).

Dated: March 1, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge